



# STATE OF INDIANA

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November 15, 2012

Mr. John Seely  
3330 Irvington Drive  
Fort Wayne, Indiana 46805

*Re: Formal Complaint 12-FC-322; Alleged Violation of the Access to Public Records Act by the Indiana-Purdue University Office of the Dean of Students*

Dear Mr. Seely:

This advisory opinion is in response to your formal complaint alleging the Indiana-Purdue University Office of the Dean of Students ("University") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Lia M. Hanson, Attorney, responded in writing on behalf of the University. Her response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you provide that you submitted a written request for records to the University via certified mail. The University received your request on October 15, 2012. You sought copies of all records "described by I.C. 5-14-3-5 Sec. 5(a)(1)(2)(3)(A)(B)(C) and (c)(1)(2)(3)(A)(B)(C)(D) respectively, referring in whole, or in part, to John Seely." As of October 29, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have yet to receive any response from the University.

In response to your formal complaint, Ms. Hanson advised on November 2, 2012, Mr. Walter Branson responded in writing to your written request. Mr. Branson stated that the University was in receipt of your request, was working on its response, and provided you with a University Request for Public Record form for you to complete. The University has never received a copy of your completed request form. Regardless, on November 8, 2012, Mr. Branson provided all records that were responsive to your request. Ms. Hanson advised that although there was a delay in producing the records as your request was not directed to University Police Department, which maintains the daily log. Further, you did not use the proper request form which you are aware of by your frequent requests that are submitted. Ms. Hanson also provided that you are aware that

the Daily Crime and Fire Log is available online at <http://new.ipfw.edu/offices/police/reports/daily-activity-logs-current-year.html>.

## ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” *See* I.C. § 5-14-3-1. The University is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the University’s public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c).

Here, the University received your request on October 15, 2012. Although sent to the incorrect department, the University was required to respond to your request in writing by October 22, 2012. As such, it is my opinion that the University acted contrary to the requirements of section 9(b) of the APRA in responding to your request. Regardless, as the University has now provided all records that are responsive to your request, I trust that this is in satisfaction of your formal complaint. In the future, should you wish to make a similar request, you should submit the proper request form to the University’s Police Department, who maintains the information required under I.C. § 5-14-3-5. Alternatively, as provided by the University, the information may also be accessed on the University’s website.

## CONCLUSION

For the foregoing reasons, it is my opinion that the University acted contrary to section 9(b) of the APRA by not responding in writing to your written request within seven (7) days of its receipt. Regardless, as the University has provided all records that are responsive to your request, I trust that this is in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a distinct "Hoage" following.

Joseph B. Hoage  
Public Access Counselor

cc: Lia M. Hanson